

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CARL GENE ORTNER,

Defendant.

Case No. 20-CR-237-JFH

OPINION AND ORDER

Currently before this Court is a Motion for Production of Documents (“Motion”) [Dkt. No. 135] filed Defendant Carl Gene Ortner, Jr. (“Defendant”). The Motion was filed in response to this Court’s Order [Dkt. No. 131] (“Order”) granting in part and denying in part Defendant’s Motion for Return of Property [Dkt. No. 128] (“Motion for Return of Property”). In the Order, the Court directed Defendant and the Government to provide additional information pertinent to Defendant’s request for the return of certain property that was described in the Motion for Return of Property (the “Designated Items”). Specifically, the Court instructed the Government to provide a written statement admitting or disclaiming its possession of the Designated Items, and directed Defendant to submit any materials, documents, affidavits, and other evidence in support of his claim that the Designated Items were unlawfully seized or retained by the Government.

Following a request for an extension of time, which this Court granted,¹ Defendant filed the instant Motion seeking discovery of materials in the Government’s possession, including, inter alia, photos of materials of items seized by the Government on August 14, 2018, a copy of the

¹ See Dkt. No. 134; Dkt. No. 136.

docket sheet, and a copy of a brief filed in response to a motion that has already been adjudicated. *See* Dkt. No. 135.

The Court denies Defendant's request for discovery. The Court's Order was issued in response to Defendant's assertion that the Government had improperly retained the Designated Items, which Defendant identified and described in his Motion for Return of Property. To the extent Defendant has a good-faith basis for believing those documents are within the Government's possession and control, he should already be in possession of facts in support of that claim, including information such as when the items were taken, who took them, the circumstances under which they were taken, and why they were not included in the property receipt signed by his spouse. It is not necessary to provide discovery to permit Mr. Ortner to describe, in an affidavit or otherwise, the facts that support his previously asserted claim that the Designated Items are in the Government's possession.

IT IS THEREFORE ORDERED that Defendant's Motion for Production of Documents [Dkt. No. 135] is **DENIED**.

Dated this 19th day of September 2023.



JOHN F. HEIL, III
UNITED STATES DISTRICT JUDGE